IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2919 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

M.D. BHANUSHALI

Versus

COTTON CORPN OF INDIA LTD

Appearance:

MR SUNIL K SHAH for Petitioner

MR DC DAVE for Respondent No. 1

RULE SERVED for Respondent No. 2

MR BHARAT J SHELAT for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 12/01/2001

ORAL JUDGEMENT

1. The petitioner has challenged the order under Article 227 passed by the Appellate Authority, the copy

of which is annexed at Annexure-I.

2. It appears that the petitioner was working at Rajkot at the relevant time with the office of the Cotton Corporation of India. His initial pay scale was Rs.750-25-825-30-1205 instead of his basic pay of Rs.965/- with effect from 26/11/1985. Memorandum of charge-sheet was issued on 25/6/1984 to the petitioner under Rule 25 of the Cotton Corporation of India Ltd., (Conduct, Disciplinary and Appeal) Rules, 1975 (for short "the Rules").

3. Inquiry Officer in his report dealt with all the charges levelled and has held that the charges have been proved. The petitioner before the Appellate Authority contended that the Inquiry Officer has relied on the evidence of witness Mr. A.P. Nair and no other documents have been produced. The Appellate Authority found no substance in his statement and pointed out that the relevant documents i.e. laboratory reports, branch committee's report and visual inspection report of Shri A.P. Nair were taken into consideration by the inquiry officer. The evidence clearly established that the purchases were made between 20/5/1982to 1/6/1982 which were of inferior quality.

4. The second ground raised before the Appellate Authority was that there was no loss in the sale of cotton bales made out from the purchase of cotton from 20/5/1982 to 1/6/1982. This has also not been accepted by the Appellate Authority. Various factors are required to be taken into consideration such as demand and supply position, market price prevalent at the relevant point of time, the scope of export of cotton, etc.

5. It was further contended that the Inquiry Officer was not aware about the technicality or the quality and the character of cotton and, therefore, could not have rendered the decision. The Appellate Authority was of the view that the evidence reveals that the cotton purchased was of inferior quality and the petitioner took quality allowance.

6. It was further contended by the petitioner that it may be a case of mistake which has not been accepted by the Appellate Authority. The report of the purchases were made through daily telegram and then D.P.R. and purchase bill forwarding memo. The quality allowance was taken at the time of unloading and weighment of the cotton.

7. It was further contended that at the centre the petitioner and others were taking quality allowance in committee which was working on ad-hoc basis. It was also not found acceptable. The appellant did not urge any further points. It is submitted on behalf of the petitioner before this Court that the officer who was conducting the inquiry was not competent to conduct the inquiry in asmuch as he was not public servant while conducting the inquiry. At page 56 there is a letter which is signed by the petitioner himself as Cotton Purchase Officer and addressed to Shri S.M. Dudai, I.A.S. Inquiry Officer, Ahmedabad. He has not mentioned that he is I.A.S. retired. Even in his defence he has not taken ground any where that the Inquiry Officer was not competent to conduct inquiry against petitioner because he is no more public officer. The learned advocate could not point out that this point was taken before the Appellate Authority. This is a question of fact and, therefore, this Court cannot examine it in a petition under Article 227 of the Constitution.

8. The scope of the petition under Article 227 is well known. This Court is not to reappreciate the evidence which has already been appreciated by the Appellate Authority. I find no merits in the petition and, therefore, the petition is dismissed with costs. Rule is discharged.

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* Pansala.